

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re: Shawn M. Barry) Case No: 11-31237
Sarah L. Barry) Chapter 13

OBJECTION TO CONFIRMATION

COMES NOW, Susan H. Call, Counsel for Carl M. Bates the Chapter 13 Trustee, and moves this Court to deny confirmation of the Chapter 13 Plan filed on April 20, 2011, for the cause as follows:

1. The Debtors filed this Chapter 13 Petition on February 25, 2011 under 11 U.S.C. Chapter 13, now pending in the United States Bankruptcy Court, Eastern District of Virginia, Richmond Division.
2. This Objection is filed pursuant to 11 U.S.C. 1325.
3. The above filed Chapter 13 Plan fails to pay all the disposable income into the Chapter 13 plan shown by:
 - a. Upon belief and testimony, it appears that the debtors understate their income on Form 22, and the wife has new employment. Under Hamilton v. Lanning, S.Ct., 177 L.Ed. 2d23, 2010 WL 2243704 (2010), this income should be included. Also, it appears that the above median debtors deduct payments for several pieces of real estate on line 47 that are being surrendered. Under Hamilton v. Lanning, S.Ct., 177 L.Ed. 2d23, 2010 WL 2243704 (2010), these deduction should be disallowed. Also, it appears that the IRS standard for a household size of 6 is \$1895.00 on line 24A, and the debtors take \$2157.00, and it appears that line 43 exceeds the IRS standards for two children by about \$60.00. If deductions are disallowed, and the income is corrected, 22C DMI on line 59 would be would yield a higher distribution to unsecured claimholders. The trustee also requests six months of stubs used to calculate income on Form 22C, and new stubs from Wife's new job since she filed, proof of any 401K loans, and proof of the amount of the signing bonus for the husband with a statement from his employer that he will not receive bonuses in the future. The Chapter 13 Trustee would suggest that the debtor pay all disposable income into the Chapter 13 Plan.

Susan H. Call, Esquire
Staff Counsel for
Carl M. Bates, Chapter 13 Trustee
P.O. Box 1819
Richmond, VA 23218-1819
(804) 237-6800
VSBN 34367

WHEREFORE, for the reasons stated herein, the Chapter 13 Trustee, by Counsel, Susan H. Call, respectfully moves the Court to deny confirmation of the Debtors' proposed Chapter 13 Plan as filed with the Court, and for such further and other relief as in the premises may seem just.

Date: May 24, 2011

/s/Susan H. Call
Susan H. Call, Counsel for
Carl M. Bates
Chapter 13 Trustee

Certificate of Service

I hereby certify that on May 24, 2011, I have mailed or hand-delivered a true copy of the foregoing Objection to Confirmation to the debtor(s), Shawn M. and Sarah L. Barry, 15013 Fox Branch Lane, Midlothian, VA 23112 and electronically sent to debtor's attorney, H. Darden Hutson, Esquire, hdhlaw@gmail.com.

/s/Susan H. Call
Susan H. Call, Counsel for
Carl M. Bates
Chapter 13 Trustee

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Staff Counsel for
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Debtor Address 15013 Fox Branch Lane
Midlothian, VA 23112

Last four digits of Social Security No(s).: 6041
1148

NOTICE OF OBJECTION TO CONFIRMATION

Susan H. Call, Counsel for Carl M. Bates the Chapter 13 Trustee, has filed papers with the Court objecting to confirmation of your Chapter 13 Plan, which was filed in this case.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one).

If you do not want the court to grant the relief sought in the objection, or if you want the court to consider your views on the objection, then on or before seven (7) days before the date of the hearing, you or your attorney must:

 X File with the court, at the address shown below, a written request for a hearing [or a written response pursuant to Local Bankruptcy Rule 9013-1(H)]. If you mail your request for hearing (or response) to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

Clerk of Court
United States Bankruptcy Court
701 East Broad Street, Suite 4000
Richmond, VA 23219

You must also mail a copy to:

Susan H. Call, Counsel for
Carl M. Bates
Chapter 13 Trustee
P.O. Box 1819
Richmond, VA 23218

Susan H. Call, Esquire
Staff Counsel for
Carl M. Bates, Chapter 13 Trustee
P.O. Box 1819
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_____ Attend a hearing to be scheduled at a later date. You will receive separate notice of hearing. **If no timely response has been filed opposing the relief requested, the court may grant the relief without holding a hearing.**

X Attend the hearing on the objection scheduled to be held on **June 1, 2011** at **11:00 am** at United States Bankruptcy Court, **701 East Broad Street, Richmond, VA 23219, Room 5100.**

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the objection and may enter an order granting that relief.

Date: May 24, 2011

/s/Susan H. Call
Susan H. Call, Counsel for
Carl M. Bates
Chapter 13 Trustee
P.O. Box 1819
Richmond, VA 23218-1819
VSBN 34367

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/s/Susan H. Call
Susan H. Call, Counsel for
Carl M. Bates
Chapter 13 Trustee

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Staff Counsel for
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